

BEFORE THE INVESTIGATIVE PANEL OF THE  
FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING JUDGE  
HOWARD C. BERMAN, JQC NO.  
00-211

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CASE NO. SC00-2491

**RESPONSE TO JOANNE KOTZEN'S REPLY REGARDING  
MOTION TO COMPEL TESTIMONY FROM JOANNE KOTZEN**

Counsel for JUDGE HOWARD C. BERMAN responds to the "Reply to Motion to Compel Testimony From Joanne Kotzen" in the following respects:

1. In her Reply, paragraph 4, Ms. Kotzen argues that the question about drug use "focuses on the past ten years which would begin around 1991." At both page 148 of her deposition attached to the Motion to Compel as Exhibit A and again at page 154, attached hereto as Exhibit A, counsel for JUDGE BERMAN made it clear that the scope of the time was the same time period that the charges being made against JUDGE BERMAN allegedly occurred:

"Ms. King: I think it's very relevant if, during the period of time these allegations occurred, Ms. Kotzen was using illegal drugs. I think that's very relevant." (Dep. p. 148)

\* \* \*

"Q. I want to, and I know you're going to object, but I want to narrow the scope of my question about illegal drug use to the period of time from 1994 through 1996, which is the time period where these allegations supposedly occurred.

That is now my question; have you ever been involved in illegal drug use during the period of time from 1994 to 1996, and wait for your attorney.

Mr. Reiter: Who is going to tell you not to answer that question. Do you feel comfortable in answering it?

The Witness: You tell me what to do. I don't care.

Mr. Reiter: Your lawyer is telling you not to answer it." (Dep., pp. 154-155).

2. The Reply argues that Ms. Kotzen is entitled to exercise the Constitutional privilege against self-incrimination. See paragraph 1(b). Yet, when asked whether he was invoking the Fifth Amendment or instructing her not to answer, counsel stated: "Not to answer." (Dep., p. 148).

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by facsimile and U.S. Mail to John R. Beranek, Esquire, and by U.S. Mail to the persons on the attached Service List this 11th day of June, 2001.

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